HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

18-09-2006

WRIT PETITION No.18419 of 2006

Between:

M/s. Romano Agencies, Secunderabad
.. Petitioner

And

1. The Appellate Deputy Commissioner (CT), Hyderabad and another.

..Respondents

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ORDER: (Per JC, J)**:**

The petitioner is a partner-ship firm and a registered dealer on the rolls of the 2nd respondent-The Commercial Tax Officer, M.G.Road Circle, Secunderabad, under the A.P. General Sales Act ('the Act' for short), carrying business of purchase and sale of G.I. Pipes and Fittings, Tiles, Tubes etc., For the assessment year 2002-03, the liability of the petitioner for the tax under the Act came to be determined by the 2nd respondent by his order dated 07-03-2006. Aggrieved by the same, the petitioner carried the matter in appeal before the 1st respondent-The Appellate Deputy Commissioner (CT), Nampally, Hyderabad. The appeal was rejected on the ground that the petitioner did not fulfill the statutory requirements of the deposit

of 12.5% of the disputed tax and the admitted tax and that the petitioner did not produce the original challan in proof of the payment of appeal institution fee. Hence, the writ petition with a prayer as follows:-

> "To declare the impugned order dated 04-07-2006 passed by the 1st respondent in AR.SI.No.B/44/2006 for assessment year 2002-03 (APGST) as illegal and unjustified."

2. The learned counsel for the petitioner stated that all the deficiencies pointed out by the appellate authority for rejecting the appeal have since been met with. Learned counsel submitted that there was some delay on the part of the petitioner to make the necessary deposit of the above mentioned amount. He further submits that the petitioner be given an opportunity to have his appeal to be decided on merits.

3. Heard the learned Government Pleader for Commercial Taxes.

4. In the circumstances, we are of the opinion that the matter can be disposed of at this stage directing the 1st respondent to consider the appeal of the petitioner against the assessment order of the 2nd respondent dated 07-03-2006 on merits, if the petitioner produces proof of the compliance with the requirements of law for maintaining the appeal.

5. With the aforementioned direction, the writ petition is disposed of. No costs.

J.CHELAMESWAR, J

September 18, 2006. **D.APPARAO, J**

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